

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

HOPE VAN WIEREN,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-10-578-D
)	
MICHAEL J. ASTRUE, Commissioner of)	
Social Security Administration,)	
)	
Defendant.)	

ORDER

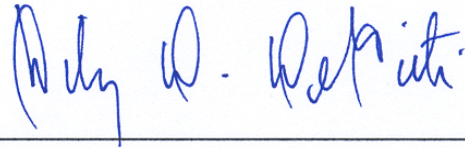
This matter comes before the Court for consideration of Plaintiff's Application for Award of Attorney Fees [Doc. No. 19], filed pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. Plaintiff seeks an award of fees in the amount of \$3,944.60 for legal services provided by her attorney (20.75 hours) and a paralegal (4.15 hours) in the case. Plaintiff is the prevailing party in this action under 42 U.S.C. § 405(g) by virtue of the Judgment and Order of Remand entered February 16, 2011. The Commissioner has responded by stating he has no objection to the requested amount or to an award payable to Plaintiff, consistent with *Astrue v. Ratliff*, 130 S. Ct. 2521, 2529 (2010), and *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

After consideration of the law, the record, and the arguments of the parties, the Court finds: (1) the Commissioner's position in the case was not substantially justified; (2) Plaintiff is entitled to an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of attorney fees requested is reasonable.

IT IS THEREFORE ORDERED that Plaintiff's Application is GRANTED. The Court orders an award of attorney fees to Plaintiff pursuant to the Equal Access to Justice Act in the

amount of \$3,944.60. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized, Plaintiff's attorney shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 11th day of May, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE